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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-958]

Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Notice of Court Decision Not in Harmony with Final Determination of Sales at Less Than Fair Value and Notice of Amended Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On November 23, 2015, the United States Court of International Trade ("CIT") issued its final judgment<sup>1</sup> sustaining the Department of Commerce's (the "Department") final results of redetermination<sup>2</sup> issued pursuant to the CIT's remand order in *Gold East Paper (Jiangsu) Co. v. United States*, Court No. 10-00371, Slip Op. 15-37 (CIT 2015) ("*Gold East III*"), with respect to the Department's amended final determination<sup>3</sup> of the antidumping duty investigation of certain coated paper suitable for high-quality print graphics using sheet-fed presses ("coated paper") from the People's Republic of China. Consistent with the decision of the United States Court of Appeals for the Federal Circuit ("CAFC") in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) ("*Timken*"), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) ("*Diamond Sawblades*"), the Department is notifying the public that the final judgment in this case is not in harmony with the

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<sup>1</sup> See *Gold East Paper (Jiangsu) Co. v. United States*, Court No. 10-00371, Slip Op. 15-131 (CIT November 23, 2015) ("*Gold East IV*").

<sup>2</sup> See Final Results of Redetermination Pursuant to Court Remand, *Gold East Paper (Jiangsu) Co. v. United States*, Court No. 10-00371, Slip Op. 15-37 (CIT 2015), dated July 10, 2015 ("Remand Redetermination III").

<sup>3</sup> See *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 59217 (September 27, 2010), as amended by *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Order*, 75 FR 70203 (November 17, 2010), (collectively, "*Final Determination*").

Department's *Final Determination* and is amending the *Final Determination* with respect to the dumping margin determined for Gold East Paper (Jiangsu) Co., Ltd., Gold Huasheng Paper Co., Ltd., Gold East (Hong Kong) Trading Co., Ltd., Ningbo Zhonghua Paper Co., Ltd., Ningbo Asia Pulp and Paper Co., Ltd. (collectively, "APP-China"), exporters and producers of subject merchandise.

DATES: EFFECTIVE DATE: December 3, 2015.

FOR FURTHER INFORMATION CONTACT: Eve Wang, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6231.

SUPPLEMENTARY INFORMATION: Subsequent to the publication of the *Final Determination*, APP-China filed a complaint with the CIT challenging aspects of the methodology used to determine its dumping margin in the *Final Determination*.

On June 17, 2013, the CIT issued *Gold East I*, instructing the Department to re-visit its decision on multiple issues in the underlying investigation.<sup>4</sup> On January 13, 2014, the Department issued its Remand Redetermination I.<sup>5</sup> Consistent with the CIT's instructions in *Gold East I*, the Department (1) recalculated the value of certain inputs using only market economy purchase ("MEP") prices, (2) used prices from Korea and Thailand for purposes of valuing certain other inputs; (3) corrected certain programming errors in the targeted dumping calculation; (4) continued to classify certain of APP-China's sales as export price ("EP"), and (5) applied the average-to-average methodology to all of APP-China's sales.<sup>6</sup>

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<sup>4</sup> See *Gold East Paper (Jiangsu) Co. v. United States*, 918 F. Supp. 2d 1317 (CIT 2013) ("*Gold East I*").

<sup>5</sup> See Final Results of Redetermination Pursuant to Court Remand, *Gold East Paper (Jiangsu) Co. v. United States*, Court Order No. 10-00371, Slip Op. 13-74 (CIT 2013), dated January 13, 2014 ("*Remand Redetermination I*")

<sup>6</sup> See Remand Redetermination I at 2.

On July 2, 2014, the CIT sustained in part, and remanded in part the Department's first remand redetermination.<sup>7</sup> On November 26, 2014, the Department issued its Remand Redetermination II.<sup>8</sup> Pursuant to the CIT's instructions in *Gold East II*, the Department used APP-China's prices for inputs from Thailand and did not use APP-China's prices for inputs from South Korea to calculate its dumping margin.<sup>9</sup> Additionally, the Department continued to apply the average-to-average methodology without zeroing to all of APP-China's sales.<sup>10</sup>

On April 22, 2015, the CIT issued its decision in *Gold East III*, in which it remanded the Department's conclusion that no information generally available to it at the time of the *Final Determination* supports a finding that the MEP prices for certain inputs from Thailand during the period of investigation may have been distorted because of countervailable export subsidies.<sup>11</sup> Additionally, the CIT instructed the Department to explain its decision not to rely on the differential pricing ("DP") analysis in complying with the CIT's order to apply the previously withdrawn targeted dumping regulation.<sup>12</sup> On July 10, 2015, the Department reversed its decision of relying on APP-China's prices for inputs from Thailand and, consistent with the CIT order, applied the average-to-transaction methodology in its targeted dumping analysis to APP-China's sales which were found to be targeted.<sup>13</sup>

On November 23, 2015, the CIT issued its decision in *Gold East IV*, in which it sustained the Department's Remand Redetermination III, finding that the Department's determination that the presumption of the continued existence of a broadly-available, non-industry-specific program that may have distorted APP-China's Thai suppliers' prices was reasonable and supported by the

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<sup>7</sup> See *Gold East Paper (Jiangsu) Co. v. United States*, 991 F. Supp. 2d 1357 (CIT 2014) ("*Gold East II*").

<sup>8</sup> See Final Results of Redetermination Pursuant to Court Remand, *Gold East Paper (Jiangsu) Co. v. United States*, Court Order No. 10-00371, Slip Op. 14-79 (CIT 2014), dated November 26, 2014 ("*Remand Redetermination II*").

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> See *Gold East III*.

<sup>12</sup> *Id.*

<sup>13</sup> See Remand Redetermination III.

record as a whole, and that the targeted dumping methodology the Department employed was reasonable.<sup>14</sup>

#### Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (“the Act”), the Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s November 23, 2015, judgment in this case constitutes a final court decision that is not in harmony with the Department’s *Final Determination*. This notice is published in fulfillment of the publication requirements of *Timken*.

#### Amended Final Results

Because there is now a final court decision with respect to this case, the Department is amending the *Final Determination* with respect to APP-China’s weighted-average dumping margin, effective December 3, 2015. The revised dumping margin is as follows:

<b>Exporter</b>	<b>Producer</b>	<b>Final Percent Margin</b>
Gold East Paper (Jiangsu) Co., Ltd.; Gold Huasheng Paper Co., Ltd.; Ningbo Zhonghua Paper Co., Ltd.; Ningbo Asia Pulp and Paper Co., Ltd.; Gold East (Hong Kong) Trading Co., Ltd.	Gold East Paper (Jiangsu) Co., Ltd.; Gold Huasheng Paper Co., Ltd.; Ningbo Zhonghua Paper Co., Ltd.; Ningbo Asia Pulp and Paper Co., Ltd.	3.64

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<sup>14</sup> See *Gold East IV*.

Accordingly, the Department will continue the suspension of liquidation pending the expiration of the period of appeal or if appealed, pending a final and conclusive court decision.

#### Cash Deposit Requirements

Since the *Final Determination*, the Department has not established a new cash deposit rate for the above-listed APP-China companies. As a result, in accordance with section 735(c)(1)(B) of the Act, the Department will instruct CBP to collect a cash deposit of 3.64 percent for entries of subject merchandise exported and produced by APP-China, effective December 3, 2015.

#### Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e), 735(d), and 777(i)(1) of the Act.

Dated: December 9, 2015.

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Paul Piquado,  
Assistant Secretary  
for Enforcement and Compliance.

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